(3)

(1)

affidavit

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

WRIT PETITION NO. 161 /2002

PETITIONER

Smt. Shanti Thakur, wife of Shri Roopnath Thakur, aged about 40 years, Sarpanch, gram Panchayat Charama, Distt. Kanker, Chhattisgarh.

VERSUS

RESPONDENTS

1. **State of Chhattisgarh, through : Principal Secretary, Department of Gram Panchayat, Mantralay, Raipur, Chhattisgarh.**
2. **The Collector, District Kanker, Chhattisgarh.**
3. **Sub Divisional Officer, Kanker, Chhattisgarh.**
4. **Smt. Mamta Sahu, Gram Panchayat Charama, Distt. Kanker, Chhattisgarh.**

P. R. No. 10/1.02.03
Presented by Shri Roop Nath
dated 02/01/03

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MAMNDAMUS, CERTIORARI, ORDER OF THE WRIT OF LIKE NATURE.

DETAILS OF THE

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(99)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P.No.161/03

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

19-6-2003

Shri Kishore Bhaduri, Advocate for the petitioner.

Dr. N.K. Shukla, Addl. Advocate General with Shri S.P. Bakaria, Govt. Advocate for the State.

Shri P.C. Pant with Shri Sunil Sahu, Advocates for the respondent No. 4 and for intervenor as well.

With consent heard finally.

2. This petition under Article 226 of the Constitution of India is against the order passed by the Collector whereby the application for grant of stay of the order dated 30-11-2002 of the Sub-divisional Officer, Kanker was rejected on the ground that there are serious complaints against the petitioner and thereafter the appeal was admitted on the ground that prima facie the case is fit for admission.

3. This Court passed an order in view of the judgment passed in Smt. Rani Bai –v- State of C.G. and others reported

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

in 2002 (2) C.G.L.J. 57, on 13-3-2003 staying only the order passed by the Sub-divisional Officer. The order was produced before the Collector and the Collector has stayed the complete proceedings of appeal on 24-4-2003. There was no direction for staying the proceedings of appeal contended counsel for the parties.

4. Counsel for the parties submitted that let the appeal be heard on merit and during hearing period of appeal, the stay may be allowed to continue.

5. It is noted that while dealing with the case of Smt. Rani Bai (supra), this Court has noted the relevant provisions and decided the matter, ~~in accordance with law~~. Paragraph 22 of the judgment is relevant and quoted below:-

> "Counsel for the parties submit that powers have been conferred on the State authorities under the M.P. Panchayats (Appeal and Revision) Rules, 1995 to decide the matters like present, but the manner in which they are exercised as reflected from the orders passed by the Sub-Divisional Officer,

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Additional Collector and the commissioner goes to show that proper training is required to be imparted to these authorities to perform such quasi-judicial functions in accordance with law. The order passed by the Sub-Divisional Officer under the provisions of Section 40 of M.P. Panchayat Raj Adhiniyam, 1993 not only takes away the valuable right of a person holding such office, but casts a stigma on the public life of a person. Therefore, exercise of such power by these authorities in hearing the matters of appeal and revision requires proper understanding of law keeping in mind principle of natural justice such training is required because State has local body establishments of Panchayats, Municipal Corporation, Municipal council and so on and so forth and the disputes like present may often arisc and travcl to such authoritics. Thcrcforc, by imparting such legal education, the authorities can justifiably perform the quasi-judicial functions in accordance with law so that no prejudice would cause to any body in a democratic set up. It must be observed that as the public is involved in the matter, the financial constraints should not come in the way in giving such training."

6. Copy of the aforesaid order was forwarded to the Secretary, General Administration Department and to the Chief Secretary of the State.

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आदेश पत्रक

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विरुद्ध

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	7. Learned Addl. Advocate General is not in a position to state as to whether action has been taken on that order though a year has passed. Addl. Advocate General to seek instructions and submit report to this Court. 8. Having considered the facts and circumstances of the case and material on record, so far as this case is concerned, it is directed that the Collector shall decide the appeal expeditiously on its own merits in accordance with law and the order passed by the S.D.O. shall remain stayed till decision of the appeal by the Collector. 9. With these directions and observations, the petition is disposed of. Certified copy as per rules. Copy to State counsel for compliance. Sd/- Fakhruddin Judge	

P/-

One Copy of C.O. Dt. 19/6/03 Received Issued Post Office

6/5/10

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